

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

SYLVIA LYND P.,

Plaintiff,

1:23-cv-946 (BKS/DJS)

v.

MARTIN O'MALLEY, Commissioner Of Social Security,

Defendant.

Appearances:

For Plaintiff:

Justin Goldstein
Law Offices of Kenneth Hiller
6000 N. Bailey Ave, Suite 1A
Amherst, NY 14226

For Defendant:

Carla Freedman
United States Attorney
Fergus Kaiser, Special Assistant United States Attorney
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Hon. Brenda K. Sannes, Chief United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Sylvia Lynd P., filed this action under 42 U.S.C. § 405(g) seeking review of the Commissioner of Social Security's denial of her applications for Disability Insurance Benefits, and Supplemental Security Income. (Dkt. No. 1). This matter was referred to United States Magistrate Judge Daniel J. Stewart for a Report-Recommendation. (Dkt. No. 5); Local Rule 73.2(d). On July 15, 2024, after reviewing the parties' briefs, (Dkt. Nos. 11, 14, 15), and the Administrative Transcript, (Dkt. No. 8), Magistrate Judge Stewart issued a Report-Recommendation recommending that Plaintiff's motion for judgment on the pleadings be

granted, Defendant's motion for judgment on the pleadings be denied; and that the Commissioner's decision be reversed and remanded for further proceedings. (Dkt. No. 16). Magistrate Judge Stewart advised the parties that under 28 U.S.C. § 636(b)(1), they had "14 days within which to file written objections" to the Report-Recommendation and that "failure to object to th[e] report within 14 days will preclude appellate review." (Dkt. No. 16, at 13 (citing *Roldan v. Racette*, 984 F.2d 85 (2d Cir. 1993); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e)). No objections were filed.

The Court reviews de novo those portions of the Magistrate Judge's findings and recommendations that have been properly preserved with a specific objection. *Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); 28 U.S.C. § 636(b)(1)(C). Findings and recommendations as to which there was no properly preserved objection are reviewed for clear error. *Id.* Neither of the parties has raised any objection to Magistrate Judge Stewart's Report-Recommendation. The Court has reviewed the Report-Recommendation for clear error and found none.

For these reasons, it is hereby

ORDERED that Magistrate Judge Stewart's Report-Recommendation (Dkt. No. 16) is **ADOPTED** in all respects; and it is further

ORDERED that Plaintiff's motion (Dkt. No. 11) is **GRANTED**; and it is further

ORDERED that Defendant's motion (Dkt. No. 14) is **DENIED**; and it is further

ORDERED that the Commissioner's decision is **REVERSED** and **REMANDED** for further proceedings.

IT IS SO ORDERED.

Dated: September 17, 2024
Syracuse, New York


Brenda K. Sannes
Chief U.S. District Judge